

AMENDED IN SENATE MARCH 26, 2014

**SENATE BILL**

**No. 1050**

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**Introduced by Senator Monning**

February 18, 2014

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An act to amend Sections 1189 and 1195 of the Civil Code, and to amend Section 8202 of the Government Code, relating to notaries public.

LEGISLATIVE COUNSEL'S DIGEST

SB 1050, as amended, Monning. Notaries public: verification of ~~content of documents~~. *identity: notice.*

Existing law provides for the appointment and commission of notaries public by the Secretary of State. Existing law authorizes a notary public to execute a certificate of acknowledgment or proof of execution of an instrument, or a jurat attached to a sworn affidavit. Existing law requires a certificate of acknowledgment, proof of execution, and jurat to be in a specified form.

This bill would require a ~~statement~~ *notice* to be included in those documents ~~indicating in a specified typeface and enclosed in a box, as specified, stating that the acknowledgment, proof of execution, or a notarial certificate of a jurat does not authenticate or verify the contents of those documents~~ *verifies only the identity of the individual who signed the document to which the acknowledgment, proof of execution, or jurat is attached, and not the truthfulness, accuracy, or validity of the document.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1189 of the Civil Code is amended to read:

1189. (a) (1) Any certificate of acknowledgment taken within this state shall ~~be~~ *include a notice at the top of the certificate of acknowledgment in not less than 12-point boldface font type enclosed in a box stating: “A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.”*

(2) *The physical format of the boxed notice at the top of the certificate of acknowledgment required pursuant to paragraph (3) is an example, for purposes of illustration and not limitation, of the physical format of a boxed notice fulfilling the requirements of paragraph (1).*

(3) A certificate of acknowledgment taken within this state shall be in the following form:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

1 State of California        )  
2 County of \_\_\_\_\_ )  
3

4 ~~This acknowledgment does not authenticate or verify the contents of the~~  
5 ~~document.~~  
6

7 On \_\_\_\_\_ before me,  
8 (here insert name and title of the officer),  
9 personally appeared \_\_\_\_\_,  
10 who proved to me on the basis of  
11 satisfactory evidence to be the person(s) whose name(s) is/are  
12 subscribed to the within instrument and acknowledged to me that  
13 he/she/they executed the same in his/her/their authorized  
14 capacity(ies), and that by his/her/their signature(s) on the  
15 instrument the person(s), or the entity upon behalf of which the  
16 person(s) acted, executed the instrument.  
17

18 I certify under PENALTY OF PERJURY under the laws of the State of  
19 California that the foregoing paragraph is true and correct.  
20

21 WITNESS my hand and official seal.  
22

23 Signature \_\_\_\_\_ (Seal)  
24

25 (2)  
26 (4) A notary public who willfully states as true any material  
27 fact that he or she knows to be false shall be subject to a civil  
28 penalty not exceeding ten thousand dollars (\$10,000). An action  
29 to impose a civil penalty under this subdivision may be brought  
30 by the Secretary of State in an administrative proceeding or any  
31 public prosecutor in superior court, and shall be enforced as a civil  
32 judgment. A public prosecutor shall inform the secretary of any  
33 civil penalty imposed under this section.

34 (b) Any certificate of acknowledgment taken in another place  
35 shall be sufficient in this state if it is taken in accordance with the  
36 laws of the place where the acknowledgment is made.

37 (c) On documents to be filed in another state or jurisdiction of  
38 the United States, a California notary public may complete any  
39 acknowledgment form as may be required in that other state or  
40 jurisdiction on a document, provided the form does not require the

1 notary to determine or certify that the signer holds a particular  
2 representative capacity or to make other determinations and  
3 certifications not allowed by California law.

4 (d) An acknowledgment provided prior to January 1, 1993, and  
5 conforming to applicable provisions of former Sections 1189,  
6 1190, 1190a, 1190.1, 1191, and 1192, as repealed by Chapter 335  
7 of the Statutes of 1990, shall have the same force and effect as if  
8 those sections had not been repealed.

9 SEC. 2. Section 1195 of the Civil Code is amended to read:

10 1195. (a) Proof of the execution of an instrument, when not  
11 acknowledged, may be made by any of the following:

12 (1) By the party executing it, or either of them.

13 (2) By a subscribing witness.

14 (3) By other witnesses, in cases mentioned in Section 1198.

15 (b) (1) Proof of the execution of a power of attorney, grant  
16 deed, mortgage, deed of trust, quitclaim deed, security agreement,  
17 or any instrument affecting real property is not permitted pursuant  
18 to Section 27287 of the Government Code, though proof of the  
19 execution of a trustee's deed or deed of reconveyance is permitted.

20 (2) Proof of the execution for any instrument requiring a notary  
21 public to obtain a thumbprint from the party signing the document  
22 in the notary public's journal is not permitted.

23 (c) Any certificate for proof of execution taken within this state  
24 shall ~~be~~ include a notice at the top of the certificate for proof of  
25 execution in not less than 12-point boldface font type enclosed in  
26 a box stating: "A notary public or other officer completing this  
27 certificate verifies only the identity of the individual who signed  
28 the document to which this certificate is attached, and not the  
29 truthfulness, accuracy, or validity of that document."

30 (d) *The physical format of the boxed notice at the top of the*  
31 *certificate for proof of execution required pursuant to subdivision*  
32 *(e) is an example, for purposes of illustration and not limitation,*  
33 *of the physical format of a boxed notice fulfilling the requirements*  
34 *of subdivision (c).*

35 (e) *A certificate for proof of execution taken within this state*  
36 *shall be in the following form:*

*A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

State of California        )  
County of \_\_\_\_\_ ) ss.

~~This proof of execution does not authenticate or verify the contents of the document.~~

On \_\_\_\_ (date), before me, \_\_\_\_ (name and title of officer), personally appeared \_\_\_\_ (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of \_\_\_\_ (name of credible witness), a credible witness who is known to me and provided a satisfactory identifying document. \_\_\_\_ (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard \_\_\_\_ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within or attached instrument as a witness at the request of \_\_\_\_ (name[s] of principal[s]).

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

SEC. 3. Section 8202 of the Government Code is amended to read:

8202. (a) When executing a jurat, a notary shall administer an oath or affirmation to the affiant and shall determine, from satisfactory evidence as described in Section 1185 of the Civil Code, that the affiant is the person executing the document. The affiant shall sign the document in the presence of the notary.

(b) To any affidavit subscribed and sworn to before a notary, there shall be attached a jurat ~~in~~ *that includes a notice at the top,*

*in not less than 12-point boldface font type enclosed in a box, stating: “A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.”*

*(c) The physical format of the boxed notice at the top of the jurat required pursuant to subdivision (d) is an example, for purposes of illustration and not limitation, of the physical format of a boxed notice fulfilling the requirements of subdivision (b).*

*(d) A jurat executed pursuant to this section shall be in the following form:*

<p><i>A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.</i></p>
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State of California

County of \_\_\_\_\_

~~This notarial certificate does not authenticate or verify the contents of the document.~~

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal \_\_\_\_\_

Signature \_\_\_\_\_